

## NOTE ON VACANT BUILDING CREDIT (14/01/2022)

**Site:** 2 Station Road, Great Shelford

**Planning Authority Reference:** 21/05276/FUL

**Proposal:** Redevelopment to form 39 retirement living apartments for older persons including communal facilities, car parking and associated landscaping.

### The existing units on site

Unit	Position	Terms (if any)	Area sq ft (m2) NIA	GIA
Stables A	Vacant from May 17	N/A	1,392 (129.32 m2)	
Stables B	Vacant from May 17	N/A	1,436 (133.41 m2)	
The Maltings	Due Vacant April 22	Lease until April 22	4,281 (397.72 m2)	
Granary House	Vacant since Sept 20	N/A	3,917 (363.91 m2)	
Link House	Vacant from February 21	N/A	997 (92.62 m2)	
			12,023 (1,116.98 m2)	13,225.37 (1,228 m2)

## POLICY BASIS

### NPPF

Paragraph 64 and footnote 30 of the NPPF states:

*64. Provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas (where policies may set out a lower threshold of 5 units or fewer). To support the re-use of brownfield land, where vacant buildings are being reused or redeveloped, **any affordable housing contribution due should be reduced by a proportionate amount.***

*FN 30. Equivalent to the existing gross floorspace of the existing buildings. This does not apply to vacant buildings which have been abandoned.*

### NPPG

*Para 026 (viability section) Where a vacant building is brought back into any lawful use, or is demolished to be replaced by a new building, the developer **should be offered** a financial credit equivalent to the existing gross floorspace of relevant vacant buildings when the local planning authority calculates any affordable housing contribution which will be sought. Affordable housing contributions may be required for any increase in floorspace.*

*Para 027 (viability section) Where there is an overall increase in floorspace in the proposed development, the local planning authority should calculate the amount of affordable housing contributions required from the development as set out in their Local P plan. A 'credit' should then be applied which is the equivalent of the gross floorspace of any relevant vacant buildings being brought back into use or demolished as part of the scheme and deducted from the overall affordable housing contribution calculation. This will apply in calculating either the number of affordable housing units*

*to be provided within the development or where an equivalent financial contribution is being provided.*

*Para 28 (viability section) **The policy is intended to incentivise brownfield development**, including the reuse or redevelopment of empty and redundant buildings. In considering how the vacant building credit should apply to a particular development, **local planning authorities should have regard to the intention of national policy.***

Paragraph 28 also sets three specific requirements:

1. Has the building been abandoned – in this case the answer is no;
2. Has it been made vacant for the sole purpose of redevelopment – in this case the answer is no.
3. Is the building covered by an extant or recently expired consent for the same or substantially the same development – in this case the answer is no.

### **COUNCIL APPLICATION OF VBC**

The Housing Strategy Team consultation response dated 11/01/22 states that

**“It is generally supported that the schemes in SCDC which apply for VBC must have vacated the premises for a three year period”**

Presumably this relates to the CIL Regulation requirements in assessing vacancy for the purposes of calculating CIL. There are a number of issues in applying such an approach as follows:

- The CIL Regulations address a completely different part of the planning system and do not transpose well to other areas;
- For the purposes of the CIL Regulations, the determination of whether a building is ‘in use’ is carried out when planning permission is granted. That does not translate to the assessment of VBC, which must have been done before permission is granted;
- Where buildings have become vacant as a consequence of economic issues as is the case here and there is no prospect of them being brought back into use, it would be nonsensical to apply the ‘6 months out of 3 years’ test;
- Application of the CIL ‘test’ could undermine the Government’s intention to re-use brownfield land and its objective to boost the supply of housing if site promoters were required to wait for up to 2 ½ years in order to secure VBC especially if there is a pressing need for housing in a particular area (which officers acknowledge there is);
- The council do not operate CIL currently and so there is no possibility of the applicant securing a double benefit in reducing both CIL and AH requirements.
- Furthermore, the council does not have a policy basis which was consulted upon, examined and adopted within a development plan setting out their proposed approach.

### **COMMENTS ON APPEAL REFERENCE APP/W0530/W/19/3223691**

We are familiar with this decision having reviewed it previously. The inspector quite clearly acknowledges that the CIL test of vacancy is “for a different purpose from the matter before me”. While the inspector applies it as starting point in their assessment, they do not apply it in their final

assessment given that in that particular case, the property had been occupied for more than 6 months within the 3 years prior to the appeal.

## **CONCLUSIONS**

The application of VBC should be accepted as part of the determination of this application given that the circumstances of the site are such that the tests set out within national policy are met. The intention of national policy is to incentivise the reuse of brownfield land.

In seeking to apply the CIL Regulation definition of vacancy, the council would be frustrating national policy intentions and the site is likely to remain vacant given there is no CIL in place locally and therefore no saving to be made in that regard.

We do not believe that the appeal decision provided is helpful as although the inspector acknowledges the council's intentions, ultimately the inspector does not apply their proposed requirements.